IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

TUESDAY, THE 31ST JULY 2007 / 9TH SRAVANA 1929

Crl.MC.No. 2446 of 2007()

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CC.647/2007 of JUDL.MAGISTRATE OF FIRST CLASS-I, KOLLAM

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PETITIONER: DEFACTO COMPLAINANT & 4TH ACCUSED:

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1. RESHMA ANIL, W/O.ANIL, CUBEC DALE,
   PALLITHOTTAM WARD, KOLLAM DISTRICT.

2. RESHMI AJITH, VARIKKADU VEEDU,
   S.N.VIHAR, THIRUMULLAVARAM P.O.,
   KOLLAM DISTRICT.

BY ADV. SRI.S.SANAL KUMAR
SMT.BHAVANA VELAYUDHAN

RESPONDENTS: COMPLAINANT:

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STATE OF KERALA, REPRESENTED BY THE
PUBLIC PROSECUTOR, HIGH COURT OF KERALA,
ERNAKULAM.

BY PUBLIC PROSECUTOR ADV.SRI.GIKKU JACOB

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 31/07/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

**R.BASANT, J**

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**Crl.M.C. No.2446 Of 2007**

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Dated this the 31st day of July, 2007

**ORDER**

The petitioners are the defacto complainant and the 4th accused respectively in a prosecution under Sec.498A IPC. They have married brothers. The 2nd petitioner faced indictment in a prosecution under Section 498A IPC, along with co-accused. The co-accused have already been found not guilty and acquitted. The case against the 2nd petitioner is pending even now. The parties have settled their disputes and have now come before this Court with a joint request that the proceedings initiated against the 2nd petitioner may be quashed invoking the powers under Section 482 Cr.P.C. An affidavit duly attested has been filed by the 1st petitioner. The affidavit shows that the matter has been settled between the parties. I am satisfied in these circumstances that there is a true, bona fide and genuine settlement between the parties. If legally permissible, I am satisfied that the composition can be accepted and premature termination of the proceedings can be directed.

2. However, the offence under Section 498A I.P.C is not legally compoundable under Sec.320 Cr.P.C. The learned counsel, in

these circumstances, rightly relies on the decision in B.S.Joshi vs. State of Haryana [AIR 2003 SC 1386]. That decision is authority for the proposition that the powers under Section 482 Cr.P.C are not fettered by stipulations of Sec.320 Cr.P.C.

3. This is an eminently fit case where the dictum in B.S.Joshi vs. State of Haryana [AIR 2003 SC 1386] can be invoked in the interests of justice. The interests of justice may at times transcend the interest of mere law. I am satisfied that this is an eminently fit case where such powers ought to be invoked and proceedings against the 2nd petitioner/4th accused brought to premature termination.

4. In the result, this Criminal Miscellaneous Case is allowed. C.C.No.647/2007 of J.F.C.M, Kollam emanating from Crime No.369/2005 of Anchalammoodu Police Station against the 2nd petitioner/ 4th accused is hereby quashed.

**(R.BASANT, JUDGE)**

sj

**/TRUE COPY/**

**P.A.TO JUDGE**